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NOV 27 2007

ATTEST *Dana L. Stewart*
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

07 CV 10952

NOV - 9 2007

FILED
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION

MDL 1789

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-39)

FILED
DEC - 3 2007
S.D. OF N.Y.

On August 16, 2006, the Panel transferred four civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 444 F.Supp.2d 1347 (J.P.M.L. 2006). Since that time, 101 additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable John F. Keenan.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Keenan.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 16, 2006, and, with the consent of that court, assigned to the Honorable John F. Keenan.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Inasmuch as no objection is
pending at this time, the
stay is lifted.

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CLERK'S OFFICE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Jeffery N. Lüthi
Jeffery N. Lüthi
Clerk of the Panel

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J. MICHAEL McMAHON,

CLERK

Warcos Quintero
BY **DEPUTY CLERK**

SCHEDULE CTO-39 - TAG-ALONG ACTIONS

<u>DIST. DIV. C.A. #</u>	<u>CASE CAPTION</u>
ARKANSAS WESTERN ARW 5 07-5192	Jennifer Alexander v. Merck & Co., Inc.
CALIFORNIA EASTERN CAE 2 07-2145	Catherine Rush v. Merck & Co., Inc.
FLORIDA SOUTHERN FLS 0 07-61535	Florence Calman v. Merck & Co., Inc.